

AMENDED IN ASSEMBLY SEPTEMBER 7, 2005

AMENDED IN ASSEMBLY AUGUST 31, 2005

AMENDED IN ASSEMBLY JULY 12, 2005

AMENDED IN SENATE MAY 19, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 12, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 281

**Introduced by Senator Maldonado
(Coauthors: Senators Alquist, Denham, and Torlakson)**

February 16, 2005

An act to add Article 11.5 (commencing with Section 49565) to Chapter 9 of Part 27 of the Education Code, relating to pupil nutrition, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 281, as amended, Maldonado. Nutrition.

Existing state and federal laws require all schools participating in meal programs to provide nutritious food and beverages to pupils.

Existing law requires that the sale of all foods on school grounds at an elementary school be approved for compliance with specified nutrition standards.

Existing law requires that a minimum of 50% of the food items, except as specified, offered for sale each schoolday at any schoolsite by any entity or organization during regular school hours be selected

from a list of specified items, including specified fruits, vegetables, and fruit and vegetable juices.

Existing law requires the State Department of Health Services to establish and implement, to the extent funds other than state general funds are available, a “5 A Day—For Better Health” program for the purpose of promoting public awareness of the need to increase the consumption of fruits and vegetables as part of a low-fat, high-fiber diet in order to improve health and prevent major chronic diseases, including diet-related cancers.

This bill would establish, within the Department of Education, the California Fresh Start Pilot Program, to be administered by the department, in consultation with the Department of Food and Agriculture and the State Department of Health Services, in order to encourage public schools maintaining kindergarten or any of grades 1 to 12, inclusive, to provide fruits and vegetables that have not been deep fried to pupils in order to supplement other fruits and vegetables that have not been deep fried and that are available to those pupils, and in order to promote the consumption of ~~fresh~~ *nutritious* fruits and vegetables by schoolage children.

The bill would make an appropriation by requiring that, of the funds appropriated in a specified item of the Budget Act of 2005, \$400,000 shall be available for the department to provide grants to a county office of education or a community college selected on a competitive basis, to be allocated in the amount of not more than \$100,000 to develop an online professional development seminar for schoolsite staff on serving, marketing, and promoting ~~fresh~~ *nutritious* fruits and vegetables, and not more than \$300,000 to contract with an independent evaluator to conduct a comprehensive evaluation, as specified.

The bill would require the department, in consultation with the Department of Food and Agriculture, the State Department of Health Services, and the State Board of Education, to develop emergency regulations necessary to implement the program and to establish guidelines for the administration and evaluation of the program.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 11.5 (commencing with Section 49565) is added to Chapter 9 of Part 27 of the Education Code, to read:

Article 11.5. The California Fresh Start Pilot Program

49565. (a) There is hereby established within the department the California Fresh Start Pilot Program *to provide fresh fruits and vegetable for public school pupils*. This program shall be administered by the department, in consultation with the Department of Food and Agriculture and the State Department of Health Services.

(b) The program is intended to encourage public schools maintaining kindergarten or any of grades 1 to 12, inclusive, to provide fruits and vegetables that have not been deep fried to pupils in order to supplement other fruits and vegetables that have not been deep fried and that are available to those pupils, and in order to promote the consumption of fresh fruits and vegetables by schoolage children.

(c) Fruits and vegetables that have not been deep fried that are provided pursuant to this article shall be provided free of charge to a pupil, where appropriate.

(d) Fruits and vegetables that have not been deep fried that are provided pursuant to this article shall be provided during the schoolday, but not during regularly scheduled lunch periods.

49565.1. (a) School districts and charter schools may apply for funding, appropriated for purposes of this article in the annual Budget Act or in another statute, for reimbursement of ten cents (\$0.10) per meal, to be paid in quarterly installments by the department, to supplement, but not to supplant, a school breakfast program under Section 49550.3 or under the federal School Breakfast Program. These funds shall be deposited into the nonprofit food service account of the school district or charter school.

(b) The funds described in subdivision (a) shall be available to school districts and charter schools that meet all of the following criteria:

(1) Provide one to two servings of ~~fresh~~ *nutritious* fruits or vegetables, or both, at breakfast.

1 (2) Spend at least 90 percent of the funding for the direct
2 purchase of ~~fresh~~ *nutritious* fruits and vegetables.

3 (3) Do not spend any of the funding for the purchase of juice;
4 ~~or canned, dried or frozen items.~~

5 (4) Provide data as required by the independent evaluator
6 pursuant to subdivision (b) of Section 49565.7.

7 49565.2. (a) The funds described in subdivision (a) of
8 Section 49565.1 may be combined with other funding sources to
9 ensure that at least one serving per day of ~~fresh~~ *nutritious* fruits
10 or vegetables, or both, is provided pursuant to the pilot program.
11 ~~After one serving of fresh fruits or vegetables, or both, is ensured~~
12 ~~using funds described in subdivision (a) of Section 49565.1,~~
13 ~~remaining funds described in subdivision (a) of Section 49565.1~~
14 ~~may be used to purchase a second serving of fresh fruits or~~
15 ~~vegetables, or both, that may include fruit or vegetable juice, or~~
16 ~~canned, dried, or frozen fruits or vegetables.~~

17 49565.3. Sites that already offer two servings of ~~fresh~~
18 *nutritious* fruits or vegetables for breakfast may be reimbursed at
19 ten cents (\$0.10) per meal for providing ~~fresh~~ *nutritious* fruits or
20 vegetables for after school snacks.

21 49565.4. (a) School districts and charter schools that do not
22 operate school breakfast programs are encouraged to apply for
23 funding to establish breakfast programs using funds appropriated
24 for this purpose in the annual Budget Act.

25 49565.5. Specific strategies for the provision of one to two
26 servings of ~~fresh~~ *nutritious* fruits or vegetables, or both, may
27 include, but not be limited to, one or more of the following:

28 (a) Fruit bars located at the school cafeteria with a minimum
29 of three choices of fruits or vegetables, or both.

30 (b) Grab-and-Go breakfasts with one to two servings of fruits
31 or vegetables, or both, to be eaten on the school campus.

32 (c) Universal Classroom Breakfast that includes one to two
33 servings of fruits or vegetables, or both.

34 49565.6. As a condition of receipt of funds, schoolsites
35 participating in this program shall include tasting and sampling
36 of ~~fresh~~ *nutritious* fruits and vegetables as part of nutrition
37 education. Strategies for nutrition education that include tasting
38 and sampling of ~~fresh~~ *nutritious* fruits or vegetables, or both,
39 may include, but not be limited to:

1 (a) Educational sampling and tasting supported with nutrition
2 education.

3 (b) An offering of fruits or vegetables in the classroom that is
4 reinforced with nutrition and agricultural bulletins.

5 (c) A monthly school campus farmers' market that allows
6 opportunities for school clubs, organizations, boosters, sports
7 teams, and other groups to organize a farmers' market that
8 highlights California produce for the student body to sample and
9 taste.

10 (d) A produce sampling program that supports a school
11 garden's harvest through additional purchases of local, in-season
12 fruits or vegetables to be used for a sampling and tasting program
13 for the school campus featuring what is growing in the school
14 garden.

15 49565.7. Of the funds appropriated for this purpose in
16 Schedule (9) of Item 6110-485 of Section 2.00 of the Budget Act
17 of 2005 (Ch. 38, Stats. 2005), as amended by Chapter 39 of the
18 Statutes of 2005, four hundred thousand dollars (\$400,000) shall
19 be available for the State Department of Education to provide
20 grants to a county office of education or a community college
21 selected on a competitive basis, to be allocated as follows:

22 (a) Not more than one hundred thousand dollars (\$100,000) to
23 develop an online professional development seminar for
24 schoolsite staff on serving, including safe handling guidelines,
25 marketing, and promoting ~~fresh~~ *nutritious* fruits and vegetables.

26 (b) Not more than three hundred thousand dollars (\$300,000)
27 to contract with an independent evaluator to conduct a
28 comprehensive evaluation, including a determination of the need
29 for educational materials for pupils and staff professional
30 development programs on the safe handling, serving, and
31 marketing of ~~fresh~~ *nutritious* fruits and vegetables as part of the
32 California Fresh Start Pilot Program.

33 49565.8. The department, in consultation with the
34 Department of Food and Agriculture, the State Department of
35 Health Services, and the State Board of Education, shall do both
36 of the following:

37 (a) Develop emergency regulations, as it deems necessary, to
38 implement the program established pursuant to this article.

39 (b) Establish guidelines for the evaluation of the program
40 developed pursuant to this article.

1 SEC. 2. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety
3 within the meaning of Article IV of the Constitution and shall go
4 into immediate effect. The facts constituting the necessity are:

5 In order to make the necessary statutory changes to implement
6 the Budget Act of 2005 at the earliest time possible, it is
7 necessary that this act take effect immediately.